IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 19TH JANUARY 2007 / 29TH PAUSHA 1928

WP(C).No. 33908 of 2006(J)

PETITIONER:

RAJAN MATHEW, S/O.MATHEW,
AGED 48 YEARS, PULICKACHUNDAYIL HOUSE,
ANACHAL, CHITHIRAPURAM P.O., IDUKKI DISTRICT.

BY ADV. SRI.GRASHIOUS KURIAKOSE

RESPONDENTS:

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1. THE DIRECTOR GENERAL OF POLICE,
THIRUVANANTHAPURAM.

2. THE SUPERINTENDENT OF POLICE,
IDUKKI.

3. THE SUB INSPECTOR OF POLICE,
VELLATHOOVAL POLICE STATION, IDUKKI DISTRICT.

BY GOVERNMENT PLEADER SMT. LATHA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

R. BASANT, J.

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W.P.C.No. 33908 of 2006 J

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Dated this the 19th day of January, 2007

JUDGMENT

The plight of the petitioner is unfortunate. His younger child, a girl aged about 13 years, Greeshma by name, a student of the 7th standard had got ready to go to the school on the morning of 19.9.2006. Only her sister Reshma was available in the house at that time. The deceased had got ready to go to the School and was in her uniform. She had kept her books ready. At that time, her elder sister Reshma, aged about 15 years, had allegedly gone to the bathroom. The deceased girl was allegedly found lying in the bed on the cot. Reshma made a hue and cry. The maternal aunt of the deceased, who stays nearby, came to the scene. The child was rushed to the hospital. She was pronounced dead at the hospital.

2. The brother of the petitioner, who had come to know of the incident, lodged the F.I. statement by 10.15 a.m. The death had occurred around 8.30 a.m. In the F.I. statement suspicion was expressed. The girl had consumed poison, it was apprehended and that apprehension was expressed. Inquest revealed that there was a

suspicious mark on the neck. Postmortem confirmed that death had occurred on account of application of constrictive force on the neck.

3. Sister Reshma, who alone could offer explanations, started prevaricating about the circumstances under which her deceased sister was found lying on the cot. Initially she said that she was found lying when she saw her for the first time. Later she stated that Greeshma had hung herself using a lungi. The lungi was seized. Sister Reshma is alleged to have behaved in an odd manner after the incident. She woke up from her sleep after seeing some nightmare and is alleged to have made certain statements. Suspicion grew. There was a doubt that one Prasanth, with whom sister Reshma was in love, had any role in the death of the deceased. The needle of suspicion had turned to one person referred to as Kuttichathan (Suresh is his real name) as Reshma, when she got up from sleep had said something to indicate his complicity. Investigation continued. Investigator was groping in the dark. A Sub Inspector was entrusted with the initial investigation. It would appear that he did not apply cellophane tape on the hand of the deceased and on her neck, eventhough the neck had shown marks of violence. Vital input was thus evidently lost.

4. The petitioner has reasons to strongly suspect that the death of his younger child is mysterious. He is not prepared to accept the version of suicide. Absolutely no reason exists, according to him, to jump to such a theory of suicide. Medical evidence does not with certainty point to the theory of suicide. On his complaint, investigation was entrusted to the Circle Inspector of Police by the superior officials. The Circle Inspector's investigation has also not led to anything tangible or acceptable.

5. It is in these circumstances that the petitioner has come to this Court. He submits that he is not convinced about the version offered by his elder child Reshma. He does not make any specific allegation, but pleads before Court that the failure of the police to resolve the misery is causing him anguish and agony. Did the deceased commit suicide? If so, what is the reason? Is there any indication that can help him to console himself that it is really a case of suicide? Did his elder child Reshma have any role in the death of her sister? Is she responsible for the same, either by herself or with the involvement of someone else? The love affair between Reshma and Prasanth was frowned upon by members of the family. Did Greeshma see something which she should not have? Does her death have anything to do with any such occurrence? Lisamma, the aunt of the deceased, who had

came to the scene, allegedly asserted that she had seen a bath towel at the scene, which is found missing later on. There are also some indications leading to a suspicion that a car was available near the scene of the crime at about the time of the crime.

6. The counsel for the petitioner submits that the petitioner is prepared to assume the worst. Even if his elder daughter were responsible for the commission of the crime, the mystery has to be resolved and the real truth has to be brought out. He laments before Court that the State may be directed to conduct an effective and efficient investigation. Four precious months have elapsed from the date of the occurrence. The police is groping in the dark. The relatives are left in anguish and agony. It is prayed that appropriate directions may be issued.

7. The learned Prosecutor, who was directed to take instructions, has got the Circle Inspector to file a statement. In the statement nothing better is revealed than the indications above. In paragraph 9 of the statement filed the Circle Inspector, it is stated as follows:

> "In this case the only person present at the house at the time of occurrence was Reshma. She was questioned several times as she stated differently in different times. She stated that she has some doubt about Suresh @ Kuttichathan. More questioning Reshma will be adversely

> affect mental health of this minor girl that may be lead to another mis happening in connection with this."

8. I have considered all the relevant inputs. I shall not venture to hazard any opinion. But the conclusion appears to be inevitable that a more purposeful, meaningful, effective, efficient and competent investigation deserves to be conducted. In the interests of truth and justice as also in the interests of all concerned, it is important and essential that a proper, competent and efficient investigation is conducted with the help of modern technology to break the mystery and to ascertain the cause of the death. The ones who are in charge of the case now appear to be unequal to the task and therefore I am of the opinion that the investigation must be entrusted to a Senior police officer not below the rank of a Superintendent of Police of the Crime Branch, C.I.D. As the crucial task is to break the attempt of the elder sister to stonewall and mislead, I am certainly of the opinion that entrustment of the investigation to a woman police officer would advance the interests of a proper and early resolution. There should be no hesitation to make use of the services of advanced scientific and technological aids.

9. This Writ Petition is accordingly allowed. It is directed that the investigation shall be conducted and continued by an efficient and

competent officer of the Crime Branch police to be specified by the Director General of Police. If a competent woman police officer of such rank is available, certainly the first respondent should entrust the investigation to that officer. Necessary directions in this regard shall be given within a period of seven days.

10. Hand over copy of the judgment to the learned Prosecutor. Call again on 30.1.2007 for the first respondent to report to this court the action taken.

(R. BASANT)
Judge

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